

## The Music Industry vs. Dexter Durnhouse & Colleagues

This controversy grew out of people accessing copyrighted material without paying for it. “The problem is that when you buy a DVD, **it's perfectly legal for you to make a copy of it for your own use**. This is the gist of the **fair use** doctrine in copyright law – **there are certain situations that negate copyright protection in favor of the content user**, including copying protected material for personal use and copying anything in the public domain for any use. **Most digital rights management schemes cannot take fair use into account**, because a computer program cannot make subjective decisions.” (Layton, Julia, n.d.)

### Visit with College Kids

The problem is prevalent on college campuses. To better understand the problem, I visited the U. of H. campus and spoke to some students and recorded our conversations. The mentality of some college students is astounding logical. Here is a snippet of what Dexter Durnhouse, a young freshman, said:

“The music CD would cost me \$15.00. Dad bought me the car and gives me money for gas, so driving to buy the CD would not cost me anything. To get it free off the Internet, I have to spend a lot of time with my friends at the pizza parlor and pool hall. We help each other with music downloads—us college kids are good at multitasking. On the average I spend about three hours to save \$15.00 worth of music. I am working for \$5.00 an hour. But I don't have the money. I have the music. Mom and Dad will be proud of me for using my time wisely.” (Dexter & Colleagues, 2010)

Dexter Durnhouse



(GlamMedia. [Image], n.d.)

Dexter and Colleagues (2010) use P2P to access their music online. “A **peer-to-peer**, commonly abbreviated to **P2P**, is any distributed network architecture composed of participants that make a portion of their resources (such as processing power, disk storage or network bandwidth) directly available to other network participants, without the need for central coordination instances (such as servers or stable hosts). Peers are both suppliers and consumers of resources, in contrast to the traditional client-server model where only servers supply, and clients consume.” (Peer-to-peer, 2010) According to Dexter, “This is like being at an online auction sale, where everybody is an auctioneer and a buyer, and everything's free.” (Dexter & Colleagues, 2010)

Without taking sides in the squabble, I should admonish Dexter and Colleagues (2010) that some credible resources allege that “Piracy is a form of theft. Specifically, it refers to the unauthorized copying or use of intellectual property. Intellectual property is knowledge or expression that is owned by someone. ... creative works, including music, written material, movies, and software, which are protected by copyright law ... songs on the CD are intellectual property. A customer in a record store can purchase a CD, but someone else still owns—or more precisely, has the copyright to—the songs on the CD.” (Internet Piracy, n.d.)

“Physical piracy—the copying and illegal sale of hard-copy CDs, videotapes, and DVDs—costs the music industry over \$4 billion a year worldwide and the movie industry more than \$3.5 billion. These numbers do not factor in the growing (and difficult to measure) problem of Internet piracy, in which music and movies are transferred to digital format and copies are made of the resulting computer file.” (Internet Piracy, n.d.)

There is serious controversy over **(1) whether online file sharing** and convenient access to a seemingly unlimited selection of free music **should be limited**, legally or morally, and **(2) whether the music industry** really **loses any money** over it. (Internet Piracy, n.d.)

Due to enthusiastic young adults like Dexter, the music industry feels severely threatened. The music industry has unofficially declared war. The Recording Industry Association of America (RIAA), the trade group that represents the U.S. music industry, has taken a position that is very onerous to Dexter and Colleagues (2010). The RIAA has hired **(1) programming experts, (2) politicians, and (3) lawyers**.

### **[1] Programming Experts**

Programming experts have developed **rights expression language**. A definition of a **rights expression language** “seems obvious, but it’s a language that expresses rights, that says what rights you have in relation to this file. You could argue that we have a perfectly good rights expression language in our copyright laws. After all, the purpose of the copyright law is to state” what the rights of copyright holders are and what the rights of the public are. “Copyright laws are written in legal language, a language that requires some interpretation and some judgment as it is put into practice.” In the digital rights management sense is a REL is a formal language like mathematics or like programming code, and it is designed to be executed as an **algorithm**. “A rights expression language is not open to interpretation but must be rendered precisely through software.” (Coyle, n.d.) This means that rights under the Fair Use Doctrine must be **quantified** with results obtained through **qualitative analysis**.

An “**algorithm**” is a list of well-defined instructions for completing a task. Starting from an initial state, the instructions describe a computation that proceeds through a well-defined series of successive states, eventually terminating in a final ending state. The transition from one state to the next is not necessarily deterministic; some algorithms, known as randomized algorithms, incorporate randomness.”  
<http://en.wikipedia.org/wiki/Algorithm>

Please see links in References for good discussions “**qualitative analysis**” (Qualitative analysis, n.d.) and “**quantitative analysis**.” (Quantitative analysis, n.d.)

**Two new computer languages** have been developed for the purpose of defining the concept of “rights” in a more computer-friendly and digital form.

“The **MPEG REL** is an ISO/IEC International Standard, officially known as ‘ISO/IEC 21000-5:2004’ and is available from ISO. The MPEG-REL is a standard rights expression language which enables the controlled distribution and access to all types of digital content and resources.

Standards such as the MPEG REL are needed to build interoperable and robust trust ecosystems that facilitate the distribution and enjoyment of digital content across media, platforms and devices.

MPEG ([MPEG REL Resources](#), n.d.)

“The **Open Digital Rights Language (ODRL)** Initiative is an international effort aimed at developing and promoting an open standard for rights expressions. ODRL is intended to provide flexible and interoperable mechanisms to support transparent and innovative use of digital content in publishing, distributing and consuming of digital media across all sectors and communities.

The ODRL Initiative governance is managed by the ODRL International Advisory Board. (ODRL Initiative, n.d.)

The site, [Answers.com](#), may be more up-to-date with **rights expression language**:

Notable RELs include:

**ccREL**

An RDF Schema used by the [Creative Commons](#) project to express [their licenses](#). This same vocabulary has also been adopted by the [GNU Project](#) to express their [General Public License \(GPL\)](#) in machine-readable form.

**ODRL**

An open standard for an XML-based REL.

**XrML**

XrML began with work at Xerox in the 1990s. After passing through several versions and separate projects, it later formed the basis of the REL for [MPEG-21](#).

**MPEG-21**

Part 5 of this MPEG standard includes a REL.

(Notable RELs, n.d.)

The music industry has responded with, among other contrivances, **rootkits**. “A rootkit is a collection of tools (programs) that enable administrator-level access to a computer or computer network. Typically, a “**cracker**” installs a rootkit on a computer after first obtaining user-level access, either by exploiting a known vulnerability or cracking a password. Once the rootkit is installed, it allows the attacker to mask intrusion and gain root or privileged access to the computer and, possibly, other machines on the network. (A rootkit is, n.d.)

“A **cracker** is someone who breaks into someone else's computer system, often on a network; bypasses passwords or licenses in computer programs; or in other ways intentionally breaches computer security. A cracker can be doing this for profit, maliciously, for some altruistic purpose or cause, or because the challenge is there. Some breaking-and-entering has been done ostensibly to point out weaknesses in a site's security system.

The term “**cracker**” is not to be confused with “**hacker**”. Hackers generally deplore cracking. However, as Eric Raymond, compiler of *The New Hacker's Dictionary* notes, some journalists ascribe break-ins to “hackers.” (A cracker is, n.d.)

Most importantly though, do not confuse this with one of the other “crackers.” I am referring to “cracker,” sometimes “white cracker,” which is a usually disparaging term for poor whites folks, mainly used in the Southern United States, but in recent decades is in usage throughout North America. (Cracker (pejorative), 2010)

**"Hacker"** is a term used by some to mean "a clever programmer" and by others, especially those in popular media, to mean "someone who tries to break into computer systems." (Hacker is a term, n.d.)

## [2] Politicians

It is interesting to look at the **trail of technology**, as set out in the first and second paragraphs of Julia Layton's "**How Digital Rights Management Works.**" There was vinyl records, then magnetic tape, microcassettes, CDs, computers, and the Internet. (Layton, Julia, n.d.) The quality of the music was increasing, then came the squabble between the music industry and Dexter and Colleagues (2010).

Now after the controversy, we have **MP3s** which decrease the quality of the product, **rootkits** which do nothing for the quality of the product, and **law suits** which do nothing for quality, and a Fair Use Doctrine whose potency has been diminished, and the burden for invoking the Fair Use Doctrine may have been shifted toward the consumer too much. The music industry has hired a lobbyist to visit with politicians and convince them that they have a vested interest in the music industry.

### Lobbyist



(JLPT. [Image], 2008)

### Sentiments of Dexter & Colleagues



(Screw. [Image], 2009)

The good lobbying pays off:

"On October 12, 1998, the U.S. Congress passed the **Digital Millennium Copyright Act**, ending many months of turbulent negotiations regarding its provisions. Two weeks later, on October 28th, President Clinton signed the Act into law.

The Act is designed to implement the treaties signed in December 1996 at the World Intellectual Property Organization (WIPO) Geneva conference, but also contains additional provisions addressing related matters.

As was the case with the **'No Electronic Theft' Act** (1997), the bill was originally supported by the software and entertainment industries, and **opposed by scientists, librarians, and academics.**

#### *Highlights Generally:*

- Makes it a crime to circumvent anti-piracy measures built into most commercial software.
- Outlaws the manufacture, sale, or distribution of code-cracking devices used to illegally copy software.

- Does permit the cracking of copyright protection devices, however, to conduct encryption research, assess product interoperability, and test computer security systems.
- Provides exemptions from anti-circumvention provisions for nonprofit libraries, archives, and educational institutions under certain circumstances.
- In general, limits Internet service providers from copyright infringement liability for simply transmitting information over the Internet.
- Service providers, however, are expected to remove material from users' web sites that appears to constitute copyright infringement.
- Limits liability of nonprofit institutions of higher education -- when they serve as online service providers and under certain circumstances -- for copyright infringement by faculty members or graduate students.
- Requires that "webcasters" pay licensing fees to record companies.
- Requires that the Register of Copyrights, after consultation with relevant parties, submit to Congress recommendations regarding how to promote distance education through digital technologies while "maintaining an appropriate balance between the rights of copyright owners and the needs of users."
- States explicitly that "[n]othing in this section shall affect rights, remedies, limitations, or defenses to copyright infringement, including fair use..."  
(UCLA Online, n.d.)

### **Fighting Back**

Dexter and Colleagues (2010) are not well educated (yet) and they are on a limited budget. They cannot afford a lot of expensive software or attorneys to represent their causes. They certainly cannot afford to buy off politicians to look after their interests. Fortunately, some companies have offered rudimentary software to help level the playing field.



(SearchEnterpriseDesktop. [Image], n.d.)

One of the most popular file-sharing services is Kazaa. "Kazaa is owned by Sharman Networks, which is based on the South Pacific island of Vanuatu and is thus less bound by U.S. laws." (Internet Piracy, n.d.) From a quick look, the Sophos Anti-Rootkit 1.5 appears to be free. Surely there is a catch. (Sophos Anti-Rootkit, n.d.)

### Vanuatu, South Pacific

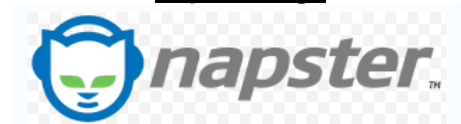


(Faith Baptist Church. [Image], n.d.)

### [3] Lawyers

Napster, an online music file sharing service, operated between June 1999 and July 2001. The original service was shut down by court order, and to the chagrin of the music industry this paved the way for decentralized peer-to-peer file-distribution programs, which have been much harder to control. Napster's brand and logo was purchased and it is now used by a pay service. (Napster, 2010)

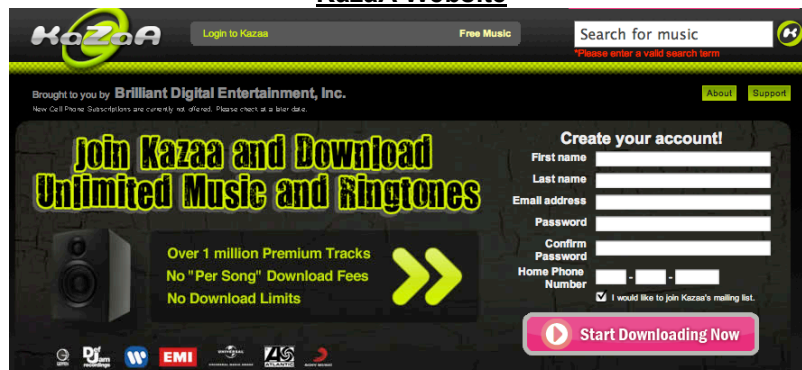
### Napster Logo



(Napster corporate logo. [Image], 2009)

"Kazaa and other descendants of Napster also use much more decentralized P2P networks than did Napster and cannot be eliminated by shutting down a few servers, as was the case with Napster. Therefore the music industry has begun focusing on individual file sharers rather than the P2P networks they use. In April 2003, ... **the recording industry sued four university students** [for] making thousands of songs available online for illegal downloading over P2P networks. ... in September 2003, [the RIAA] ... **filed lawsuits against hundreds of Kazaa users**, threatening them with penalties of thousands of dollars per copyrighted work that was shared online." (Internet Piracy, n.d.)

### Kazaa Website



(Brilliant Digital [image], n.d.)

A cursory view of the Internet of recent article indicates, I believe, that ISPs are not obligated to give away customer identities, absent a court order; intricacies of law being beyond the scope of the assignment.

### **Fake IP Addresses**

A Google search for *isp customer identities* brings up several companies that should make life easier for Dexter and Colleagues (2010). Below is an example.



### **Summary**

The RIAA (Recording Industry Association of America) says it is acting in accordance with rules, logic, and ethics. Dexter's response was "If I wasn't able to get the music free off the Internet I would not buy it. Most of the songs I have, I've never listened to." (Dexter & Colleagues, 2010) Clearly there is not an equitable division of resources in this squabble. Politicians can be expected to show favoritism, due to which side their bread is buttered on. There is an old saying that you get what you pay for. As justice is a commodity, the RIAA probably has more justice than Dexter and Colleagues (2010). Though courts are supposedly impartial, as decisions are rendered in accordance with relative merit or significance of one's position, good legal representation does affect the outcome.

There is an argument to be made that the squabble is mostly with the Recording Industry Association of America (RIAA), and that the RIAA is inciting and stimulating the squabble to enhance its own monetary agenda.

...

**References: =====**

Coyle, Karen. (n.d.) Rights Expression Language. Digital Rights Management - Part 3. Karen Coyle's Website. Retrieved from [http://www.kcoyle.net/drm\\_basics3.html](http://www.kcoyle.net/drm_basics3.html)

**(Coyle, n.d.)**

Justification: It appears that Karen Coyle is a librarian with over thirty years of experience with library technology, etc. <http://www.kcoyle.net/reach.html> She seems very knowledgeable.

"A cracker is..." (n.d.) SearchSecurity.com Definitions. Retrieved from

[http://searchsecurity.techtarget.com/sDefinition/0..sid14\\_gci211852.00.html](http://searchsecurity.techtarget.com/sDefinition/0..sid14_gci211852.00.html)

**(A cracker is, n.d.)**

Justification: I like how this site links you to terms within the explanations. Then the next link also has links.

Dexter Durnhouse & Colleagues. (2010, April 21) Library. University of Houston.

**(Dexter & Colleagues, 2010)**

Justification: I am glad I decided to create this resource. It was enlightening to visit with Dexter and his colleagues. I found Dexter and his colleagues credible, though I found their logic immature at times.

"Hacker is a term..." (n.d.) SearchSecurity.com Definitions. Retrieved from

[http://searchSecurity.techtarget.com/sDefinition/0..sid14\\_gci212220.00.html](http://searchSecurity.techtarget.com/sDefinition/0..sid14_gci212220.00.html)

**(Hacker is a term, n.d.)**

Justification: I found this a reliable and well written resource of information.

Internet Piracy | Introduction. (n.d.) eNotes. Retrieved from <http://www.enotes.com/internet-piracy-article>

**(Internet Piracy, n.d.)**

Justification: I chose this resource because it appeared to be reliable and it was detailed.

Layton, Julia. (n.d.) How Digital Rights Management Works. SLIS 5715 assigned reading. Retrieved from

<http://computer.howstuffworks.com/drm.htm> )

**(Layton, Julia, n.d.)**

Justification: I chose this resource because it appeared to be reliable and it was detailed. I have found assigned class readings to be reliable, to the degree of their age. Even when outdated, they show a good comparison, or a snapshot of where we used to be.

MPEG REL Resources. (n.d.) ContentGuard. Retrieved from

[http://www.contentguard.com/MPEGREL\\_home.asp](http://www.contentguard.com/MPEGREL_home.asp)

**(MPEG REL Resources, n.d.)**

Justification: I chose this site because in spite of a business interest it appeared reliable. I have noticed that software companies are very frequently honest (as far as I can tell) about the limitations of their material.

**Notable RELs.** (n.d.) Answers.com. Retrieved from <http://www.answers.com/topic/rights-expression-language>

**(Notable RELs, n.d.)**

Justification: I have had good luck with this site in the past. Its articles are well written and it has links to reliable sites.

The ODRL Initiative. (n.d.) Retrieved from <http://odrl.net/>

**(ODRL Initiative, n.d.)**

Justification: I chose this site because it was reliable and educational. It did not conflict with other sources of information.



Peer-to-peer. (2010, April 21) Wikipedia. Retrieved from <http://en.wikipedia.org/wiki/Peer-to-peer>  
**(Peer-to-peer, 2010)**

Justification: I chose this resource because I have almost always had good luck with Wikipedia. It was well written and I found it credible.

"A rootkit is..." (n.d.) SearchMidmarketSecurity.com Definitions. Retrieved from [http://searchmidmarketsecurity.techtarget.com/sDefinition/0,,sid198\\_gci547279\\_00.html](http://searchmidmarketsecurity.techtarget.com/sDefinition/0,,sid198_gci547279_00.html)  
**(A rootkit is, n.d.)**

Justification: This appeared to be a reliable resource. It has a lot of links to other material. Some folks spent a lot of time setting this up.

Sophos Anti-Rootkit 1.5. (n.d.) Retrieved from [http://download.cnet.com/Sophos-Anti-Rootkit/3000-8022\\_4-10702329.html](http://download.cnet.com/Sophos-Anti-Rootkit/3000-8022_4-10702329.html)  
**(Sophos Anti-Rootkit, n.d.)**

Justification: This source had a business interest. Its details were beyond the scope of this assignment, but it appears reliable. If a reader wants to know more about this, this would be a good place to start.

UCLA Online. (n.d.) The Digital Millennium Copyright Act. The UCLA Online Institute for Cyberspace Law and Policy. University of California, Los Angeles. Retrieved from <http://www.gseis.ucla.edu/iclp/dmca1.htm>  
**(UCLA Online, n.d.)**

Justification: This was part of the the UCLA Online Institute for Cyberspace Law and Policy archives. This is very credible and accurate source.

Cracker (pejorative). (2010, April 23) Retrieved from [http://en.wikipedia.org/wiki/Cracker\\_\(pejorative\)](http://en.wikipedia.org/wiki/Cracker_(pejorative))  
**(Cracker (pejorative), 2010)**

Justification: Justification: I chose this resource because I have almost always had good luck with Wikipedia. It was well written and I found it credible.

Napster. (2010, April 9) Retrieved from <http://en.wikipedia.org/wiki/Napster>  
**(Napster, 2010)**

Justification: Justification: I chose this resource because I have almost always had good luck with Wikipedia. It was well written and I found it credible.

Qualitative analysis. (n.d.) Answers.com. Retrieved from <http://www.answers.com/topic/qualitative-research>  
**(Qualitative analysis, n.d.)**

Justification: I have found this site reliable in the past. It "borrows" information from other sites and has many links to reliable sites. I have had good luck with this site in the past.

Quantitative analysis. (n.d.) Answers.com. Retrieved from <http://www.answers.com/topic/quantitative-analysis>  
**(Quantitative analysis, n.d.)**

Justification: I have found this site reliable in the past. It "borrows" information from other sites and has many links to reliable sites. I have had good luck with this site in the past.

**Sites used exclusively for images: =====**

Brilliant Digital Entertainment, Inc. [image] (n.d.) Image viewed at <http://www.kazaa.com/>  
**(Brilliant Digital. [Image], n.d.)**

Justification: This site provided a good image. It illustrated and enhanced my story.

Faith Baptist Church. [Image] (n.d.) Vanuatu, sunny South Pacific. Image retrieved from <http://fbc-wa.org/Hirtzels/about.html>

**(Faith Baptist Church. [Image], n.d.)**

Justification: This site provided a good image. It illustrated and enhanced my story.

GlamMedia. [Image] (n.d.) Image retrieved from

[http://parenting.glam.com/articles/detail/make\\_your\\_kids\\_college\\_fund\\_count/](http://parenting.glam.com/articles/detail/make_your_kids_college_fund_count/)

**(GlamMedia. [Image], n.d.)**

Justification: This site provided a good image. It illustrated and enhanced my story.

Hide My IP (Image). (n.d.) Image retrieved from <http://www.hide-my-ip.com/hidemyip.shtml> see also

<http://www.hide-my-ip.com/>

**(Hide My IP. [Image], n.d.)**

Justification: This image was worth a thousand words. Justification: This site provided a good image. It illustrated and enhanced my story.

JLPT 2-kyu word of the day. [Image] (2008, November 13) Image retrieved from

<http://1w1d.wordpress.com/2008/11/13/o-bribe/>

**(JLPT. [Image], 2008)**

Justification: This site provided a good image. It illustrated and enhanced my story.

Screw The Social Media Purists. [Image] (2009, December 3) Admin. Image retrieved from

<http://www.andrewjamesinc.com/blog>

**(Screw. [Image], 2009)**

Justification: This site provided a good image. It illustrated and enhanced my story.

SearchEnterpriseDesktop.com. [Image] (n.d.) This image retrieved from

[http://searchenterprisedesktop.techtarget.com/generic/0,295582,sid192\\_gci1224914,00.html](http://searchenterprisedesktop.techtarget.com/generic/0,295582,sid192_gci1224914,00.html)

**(SearchEnterpriseDesktop. [Image], n.d.)**

Justification: This site provided a good image. It illustrated and enhanced my story.

Napster corporate logo.svg. [Image] (2009, April 14) Wikipedia. Retrieved from

[http://en.wikipedia.org/wiki/File:Napster\\_corporate\\_logo.svg](http://en.wikipedia.org/wiki/File:Napster_corporate_logo.svg)

**(Napster corporate logo. [Image], 2009)**

Justification: This site provided a good image. It illustrated and enhanced my story.

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